

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

WRIT PETITION No. 362 (M/S) OF 2006

Chanu S/o Shri Hira

R/o Village Dumanpuri, Pargana, Goverdhanpur,
Tehsil Laksar District Hardwar.

.....Petitioner

Versus

1. Upper Chief Revenue Commissioner Uttaranchal, Dehradun.

2. Ram Lal S/o Sri Kalu R/o Village Dumanpuri, Pargana,
Goverdhanpur, Tehsil Laksar District Hardwar.

..... Respondents

12.04.2006

Sri Manish Arora Counsel for the petitioner.

Learned Standing counsel for the respondent No.1.

Sri M.S. Tyagi, learned Counsel for the respondent no.2

Hon'ble Rajesh Tandon, J.

Sri Manish Arora, Counsel for the petitioner, Standing Counsel for the respondent No.1 and Sri M.S. Tyagi, Counsel for the respondent no.2.

By the present writ petition, the petitioner ahs prayed for a writ of certiorari quashing the orders dated 29.09.2004 & 21.09.2005 passed by the respondent no.1.

Briefly stated according the petitioner during the mutation proceedings the objections were filed by both the parties on 31.08.1993 and mutation was recorded in favour of the Petitioner. Aggrieved by the said order, the respondent no.2 has preferred a appeal in the Court of S.D.M., Laksar District Hrdwar being appeals no. 21/1994 & 22/1994. The S.D.M., Laksar has set aside the order dated 31.03.1995. Against the aforesaid order, the respondent no.2 has filed a revision. The revision was allowed on 16.02.1996 and earlier orders dated 31.08.1993 and 31.03.1995 were set aside and the matter was referred to Board of Revenue.

The submission of the petitioner is that he was not aware about this reference and he came to know about this order when he has seen the Khatauni. He has filed a restoration application

on the ground that he was not aware about the exparte order. The application was dismissed on 21.09.2005.

On the other hand, Sri Tyagi, Counsel for the respondent no.2 has submitted that restoration application has rightly been rejected.

In view of the above, the matter is sent back to the Chief Revenue Commissioner and liberty is given to the petitioner to file the application under section 5 of Limitation Act.

The writ petition is allowed, the matter is sent back to the Upper Chief Revenue Commissioner Uttarachal, Dehradun for deciding afresh after hearing the parties.

Subject to the aforesaid observations, writ petition is allowed.

(Rajesh Tandon, J.)

12.04.2006

Jain